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Status: **Pending**

Case Number: **CP 367/2023**  
(KAHC010466372023)

Classification:

Date of Filing: **04/09/2023**  
**13:35:51**

Petitioner: **M/S PATANJALI**  
**FOODS LIMITED**

Pet. Advocate: **ARJUN RAO**

Respondent: **M T WINDSOR**  
(IMO NO 9542130)

Resp. Advocate:

Filing No.: **CP 368/2023**

Judge: **S.G.PANDIT**

Last Posted For: **ADMISSION**

Last Date of Action:  
**04/09/2023**

Last Action Taken: **NOTICE**

Next Hearing Date:

Tentatively case may be listed  
on (likely to be listed on):  
**28/03/2024 (Computer**  
**Generated Date)**

**Daily Orders: CP 367/2023**

1	S.G.PANDIT	<u>04/09/2023</u>
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ORDER on I.A.No.1/2023

Heard learned senior Counsel Sri.Dhyan Chinnappa for Miss.Maitreyi Bhat, learned counsel for petitioner.

This petition is presented invoking Section 5 read with Section 3 of the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 (for short "2017 Act") read with Order VII Rule 1 read with Section 26 of the Code of Civil Procedure, 1908, with a prayer to direct respondent Vessel M.T.WINDSOR (IMO No.9542130) and all persons interested in her to pay a sum of Rs.82,89,741/- being Principal sum of Rs.64,89,741/- and cost of Rs.18,00,000/- with interest on the Principal sum of Rs.64,89,741/- at the rate of 18% p.a. from the date of institution of the claim till payment or realization.

The petitioner has also filed I.A.No.1/2023 under Order XXXIX Rules 1 and 2 of CPC read with Section 5 of 2017 Act directing arrest of respondent Vessel M.T.WINDSOR (IMO No.9542130) along with her hull, engines, gears, tackles, bunkers, machinery, apparel, plant, furniture, fixtures, appurtenances and paraphernalia, plant and machinery at present lying at New Mangalore Port or wherever she is within the territorial waters of India.

Learned senior counsel for the petitioner would submit that I.As.No.2 and 3 could be considered at later stage.

Section 2(a) of 2017 Act defines "admiralty jurisdiction" which would mean that the jurisdiction exercisable by a High Court under Section 3, in respect of maritime claims specified under 2017 Act. Section 2(c) of 2017 Act defines "arrest", which would mean detention or restriction or removal of a vessel by order of a High Court to secure a maritime claim including seizure of a vessel in execution or satisfaction of a judgment or order. Section 3 of 2017 Act confers jurisdiction on the High Court in respect of all maritime claims, over the waters upto and including territorial waters of their respective jurisdictions in accordance with the provisions contained in the Act. Section 4 deals with maritime claim. It is the case of the petitioner that its claim falls within Section 4(1)(f) of 2017 Act.

It is submitted that the petitioner entered into sales contract with the Semi Darby Oils Trading Private Limited in terms of Annexure-E contract No.S/DDS/2304/RPOL0017 DATED 11.04.2023 for supply of 6000 metric tonnes +/- 2.00 Pct at sellers option and at contract price. It is submitted that in terms of the contract, Semi Darby Oils Trading Private Limited under Annexure-H loaded 6000.326 metric tones to the sister-Vessel of the respondent i.e., ASP Sunrise. It is the grievance of the petitioner that the Vessel ASP Sunrise, sister-Vessel of M.T.WINDSOR (IMO No.9542130) short supplied 73.763 metric tones, which is evidenced by survey report dated 09.05.2023 placed on record along with memo dated 04.09.2023. Due to short supply of 73.763 metric tonnes, the petitioner has suffered loss to the tune of Rs.64,89,741/- and cost of Rs.18,00,000/-, totally the petitioner is claiming Rs.82,39,741/-.

Learned Senior counsel would submit that respondent Vessel M.T.WINDSOR (IMO No.9542130) is a sister ship of ASP Sunrise. As the respondent-Sister vessel has entered the territorial waters of this Court, the petitioner is seeking for arrest of the ship so as to realize the amount due from its sister ship ASP Sunrise.

On going through the material on record and from the survey report dated 09.05.2023, Prima facie I am of the view that ASP Sunrise, sister ship of respondent Vessel M.T.WINDSOR (IMO No.9542130) has short supplied 73.763 metric tones of RBD Pal olein. The claim of petitioner would amount to maritime claim. To secure recovery of loss suffered, the petitioner would be entitled for arrest of respondent Vessel M.T.WINDSOR (IMO No.9542130). It is also made clear that the petitioner would be liable to pay damages, if ultimately the arrest is found to be wrongful or unjustified or if the arrest is of excessive security.

Issue emergent notice to respondent.

It is hereby ordered arrest of respondent Vessel M.T.WINDSOR (IMO No.9542130) along with her hull, engines, gears, tackles, bunkers, machinery, apparel, plant, furniture, fixtures, appurtenances and paraphernalia, plant and machinery, which is at New Mangalore Port Trust within Indian territorial waters and to keep under arrest until further orders of this Court.

It is further ordered that Port Officer and Customs Officer of the New Mangalore Port Trust shall also intimate about this order to the Master/Chief Engineer of the respondent Vessel M.T.WINDSOR (IMO No.9542130) and effect warrant of arrest of the respondent-Vessel.

The Registry is also directed to inform this order to New Mangalore Port Authorities through following e-mail addresses:  
chairman@nmpt.gov.in

dychairman@nmpt.gov.in  
cvo@nmpt.gov.in  
fdcao@nmpt.gov.in  
dyconservator@nmpt.gov.in  
secretary@nmpt.gov.in  
trafficmanager@nmpt.gov.in  
chiefmechengineer@nmpt.gov.in  
cmo@nmpt.gov.in  
pr\_section@nmpt.gov.in  
nmpt\_mangalore@nmpt.gov.in  
shekar.k@nmpt.gov.in

It is made clear that it is open for the respondent-Vessel to seek for vacating or modification of the order passed.

The petitioner is also directed to serve a copy of this order as also the writ petition on the respondent.

I.A.No.1/2023 is accordingly, allowed.

Hand delivery of the order is permitted.

**Last Updated On:** 2023-09-05 11:31:37